

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 149/2005

1. The Village Panchayat of Calangute,
through its Sapranch having its Office
at Calangute, Bardez, Goa.
2. The Sarpanch,
Village Panchayat of Calangute,
Calangute, Bardez, Goa. Petitioners.

V/s

1. Collector & District Magistrate,
North – Goa, Panaji, Goa.
2. Executive Engineer,
W.D. XVII (R) , Public Works Department,
Mapusa, Goa. Respondents.

Mr. A. N. S. Nadkarni with Mr. H. D. Naik, Advocates for the petitioners.

Mr. S. S. Kantak, Advocate General with Ms. L. Dharwadkar, Addl. Govt. Advocate for the respondents.

CORAM : R.M. LODHA &
N.A. BRITTO, JJ.

DATE : 22ND AUGUST, 2005.

ORAL JUDGMENT : (Per LODHA, J.)

Heard. Rule.

2. By consent of the learned Counsel for the petitioners and

the learned Advocate General, the Rule is heard finally.

3. It is not in dispute and rather it is admitted before us that no notice was given to the petitioners by the Collector and District Magistrate, North Goa, Panaji before passing the Order dated 12th January, 2005. It is contended that subject-hoardings were erected by the Village Panchayat of Calangute in exercise of its independent and ancillary powers conferred under the Goa Panchayat Raj Act, 1994.

4. On the other hand, the case of the respondents is that by virtue of the amended provisions of Section 3 of the Goa Prevention of Defacement of Property Act, 1988 and the Notification No. 10/211/2001/DMA/1674 issued in exercise of the powers by the State Government, it was incumbent upon the Village Panchayat to obtain permission from the Collector before displaying the board or hoardings and since no permission from the Collector was obtained by the petitioners, the impugned order dated 12th January, 2005 came to be passed and it was not necessary to give any notice to the petitioners before passing the said order.

5. We do not intend to go into the merits of the rival contentions, but we are surely of the view that the petitioners ought to have been given notice by the Collector before the impugned order dated 12th January, 2005 came to be passed.

6. We, accordingly, quash and set aside the the Order dated 12th January, 2005. The order dated 12th January, 2005 shall be treated as notice to the petitioners as to why the hoardings erected by them on the CHOGM road, near Saligao junction be not removed for having been erected without obtaining the permission from the Collector and District Magistrate, North Goa, Panaji. The petitioners shall file their reply to the notice within two weeks from today. The Collector and District Magistrate, North Goa, Panaji shall pass the appropriate order after hearing the petitioners thereafter.

The Rule is disposed of in accordance with the aforesaid terms. No costs.

R.M. LODHA, J.

N.A. BRITTO, J.

ssm.